

Advisory Action

Application No.

09/707,468

Applicant's:

Nicolaides

Examiner

Dave Nguyen

Art Unit

1632



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Jul 28, 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a. ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b. ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see NOTE below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s):
112, first paragraph rejection 1, 2, 4, 10, 11, 22, 23, 25, 29, 75, 78
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:
of the outstanding rejection under 112, first paragraph with respect to claims 73, 74, 76, 77, 79, 80.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: 1, 2, 4, 10, 11, 22, 23, 25, 29, 75, and 78
- Claim(s) objected to: _____
- Claim(s) rejected: 73, 74, 76, 77, 79, and 80
- Claim(s) withdrawn from consideration: _____
8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☒ Other: The examiner called applicant on August 13, 2003 to discuss rejected claims.
Applicant will fax a claim amendment to reflect the results of the discussion.

DAVE T. NGUYEN
PRIMARY EXAMINER



A DOCPHOENIX

APPL PARTS

_____**IMIS**_____
Internal Misc. Paper

_____**LET.**_____
Misc. Incoming Letter

_____**371P**_____
PCT Papers in a 371 Application

_____**A...**_____
Amendment Including Elections

_____**ABST**_____
Abstract

_____**ADS**_____
Application Data Sheet

_____**AF/D**_____
Affidavit or Exhibit Received

_____**APPENDIX**_____
Appendix

_____**ARTIFACT**_____
Artifact

_____**BIB**_____
Bib Data Sheet

_____**CLM**_____
Claim

_____**COMPUTER**_____
Computer Program Listing

_____**CRFL**_____
All CRF Papers for Backfile

_____**DIST**_____
Terminal Disclaimer Filed

_____**DRW**_____
Drawings

_____**FOR**_____
Foreign Reference

_____**FRPR**_____
Foreign Priority Papers

_____**IDS**_____
IDS Including 1449

_____**NPL**_____
Non-Patent Literature

_____**OATH**_____
Oath or Declaration

_____**PET.**_____
Petition

_____**RETMAIL**_____
Mail Returned by USPS

_____**SEQLIST**_____
Sequence Listing

_____**SPEC**_____
Specification

_____**SPEC NO**_____
Specification Not in English

_____**TRNA**_____
Transmittal New Application

_____**CTNF**_____
Count Non-Final

_____**CTRS**_____
Count Restriction

_____**EXIN**_____
Examiner Interview

_____**M903**_____
DO/EO Acceptance

_____**M905**_____
DO/EO Missing Requirement

_____**NFDR**_____
Formal Drawing Required

_____**NOA**_____
Notice of Allowance

_____**PETDEC**_____
Petition Decision

OUTGOING

_____**CTMS**_____
Misc. Office Action

_____**1449**_____
Signed 1449

_____**892**_____
892

_____**ABN**_____
Abandonment

_____**APDEC**_____
Board of Appeals Decision

_____**APEA**_____
Examiner Answer

_____**CTAV**_____
Count Advisory Action

_____**CTEQ**_____
Count Ex parte Quayle

_____**CTFR**_____
Count Final Rejection

INCOMING

_____**AP.B**_____
Appeal Brief

_____**C.AD**_____
Change of Address

_____**N/AP**_____
Notice of Appeal

_____**PA..**_____
Change in Power of Attorney

_____**REM**_____
Applicant Remarks in Amendment

_____**XT/**_____
Extension of Time filed separate

Internal

_____**SRNT**_____
Examiner Search Notes

_____**CLMPTO**_____
PTO Prepared Complete Claim Set

_____**ECBOX**_____
Evidence Copy Box Identification

_____**WCLM**_____
Claim Worksheet

_____**WFEE**_____
Fee Worksheet

File Wrapper

_____**FWCLM**_____
File Wrapper Claim

_____**IIFW**_____
File Wrapper Issue Information

_____**SRFW**_____
File Wrapper Search Info

BACKFILE DOCUMENT INDEX SHEET